

First named inventor: Reese  
Serial no. 09/918,418  
Filed 7/30/2001  
Attorney docket no. 10011053-1

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## REMARKS

### Claim objections

Claims 1, 12, and 17 have been objected to because there is a comma after the word and before the last limitation of each of these claims. Applicant does not believe that the presence of these commas is improper, but to further along prosecution, has amended these claims so that the commas are no longer present. Applicant notes that the substantive subject matter of these claims is not affected by this amendment.

### Claim rejections

Claims 1-20 have been rejected under 35 USC 102(b) as being anticipated by Dutcher (6,021,496). Claims 1, 12, and 17 are independent claims, from which the remaining claims depend. Applicant submits that claim 1 as amended, and claims 12 and 17 as originally filed, are patentable over Dutcher, as is now described, such that the remaining claims are patentable for at least the same reasons.

### *What is covered by the claimed invention*

Claims 1, 12, and 17 are all limited to the "network device drivers" not being loaded until after the user has logged into the computer. For instance, in claim 1, the network device driver for each component is loaded after the user has logged into the computer. In claims 12 and 17, the pre-log-in boot sequence does not load network device drivers, and the post-log-in boot sequence loads the network device drivers, such that the network device drivers are not loaded until after the user has logged into the computer. It is this limitation – that network device drivers are not loaded until after the user has logged into the computer – that Applicant particularly is relying upon as not being found in Dutcher.

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*What a network device driver is – to understand the claimed invention better*

As commonly understood by those of ordinary skill within the art, a network device driver is a device driver for a network device, such as a device driver for a wired network adapter, a device driver for a modem, a device driver for a wireless network card, and so on. Applicant has filed two references with this response that define what a device driver is. In the Computer Encyclopedia definition, a device driver is defined as “a program routine that links the operating system to a peripheral device,” such as a network device. A hardware device’s “driver must be installed in order to use [the device].” In the Microsoft Dictionary definition, a device driver is similarly “a software component that permits a computer system to communicate with a device.”

*The definition of network device driver as applied to the claimed invention*

Therefore, a network device driver is the software component or program routine that enables the network device to be used. If the device driver for a network device is not installed, then the network device cannot be used by the computer. In the context of the claimed invention, then, the fact that the network device drivers are not loaded until after the user logs into the computer means that the computer cannot use the network devices until after the user logs into the computer. Thus, the computer cannot access networks until after the user logs into the computer, since the computer cannot use the network devices to access these networks until after the user logs into the computer. This distinction is key, and is now used to show why Dutcher does not anticipate the claimed invention.

*Dutcher uses network devices before the user logs in, unlike the claimed invention*

In Dutcher, a user does indeed not establish network connectivity with a network until after the user has logged into the computer, as noted by the Examiner. (See, e.g., col. 2, lines 10-15) However, significantly, Dutcher necessarily and inherently loads the network devices before the user logs into the computer, since these network devices have to be used to “discover” the

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networks that the user can log onto. That Dutcher uses the network devices to discover networks that the user can log onto is now particularly shown.

Dutcher begins "in response to a logon request at the client." (Col. 2, ll. 43-45)

Thereafter:

The client machine runs the Microsoft Windows NT operating system and authentication may be effected from one or more non-native server domains . . . .  
*The various non-native domains are 'discovered' by issuing requests from the client to one or more servers in the network. . . . Then, when a user attempts to logon, the list(s) . . . are presented to the user to enable the user to select the location(s) at which he or she is to be authenticated.*

(Col. 2, l. 65, through col. 3, l. 15) (Emphasis added) So this is what is going on in Dutcher: before the user logs onto a network, his or her computer "discovers" which networks the user can log onto by issuing requests to these servers, and a list of these servers is presented to the user.

It should be clear, then, why Dutcher does not anticipate the claimed invention. For the user's computer to discover which networks the user can log onto, the computer necessarily has to use the network devices of the computer – otherwise, the computer could not communicate with these networks. But, for the computer to use its network devices, the device drivers for the network devices inherently and necessarily have to be loaded. Furthermore, the discovery process occurs before the user logs onto a given network. Therefore, Dutcher loads in the network device drivers *before* the user logs on, in contradistinction to the claimed invention. As such, Dutcher cannot anticipate the claimed invention.

*Specific responses to the Examiner's arguments (misunderstanding as to "driver")*

Applicant believes that the Examiner rejected claims 12 and 17 as originally filed in the patent application, and the patentability of which is argued herein, due to a misunderstanding of what a network device driver is. For instance, in paragraph 5 on pages 5-6 and paragraph 6 on page 3 of the Office Action, the Examiner relies upon column 2, lines 50-60 ("first excerpt"),

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and column 8, line 60, through column 9, line 10 ("second excerpt") of Dutcher as disclosing a pre-log-in boot sequence without loading network device drivers. In each of these excerpts of Dutcher, as is particularly described below, Dutcher does not specifically discuss that network device drivers are loaded after log in, as in the claimed invention (and, indeed, does not mention device drivers at all!). Applicant believes that the Examiner has misconstrued what a network device driver is in interpreting Dutcher – which is completely understandable – and hopes that the discussion of what a network device driver is presented above will help.

The first excerpt of Dutcher discloses that a user profile or a user account for the user is not loaded until after the user logs onto a given network. (Col. 2, ll. 50-60) However, a network device driver is not the same as a user profile or a user account. Indeed, as is commonly understood by those of ordinary skill within the art, in the Microsoft Windows NT operating system, the network device drivers are loaded before the user is presented with the option of logging onto a given network (along with all the other hardware device drivers). Dutcher does not deviate from this normal behavior of the Microsoft Windows NT operating system in having a user profile or a user account loaded after the user logs onto a network.

The second excerpt of Dutcher discloses the discovery process outlined above. (Col. 8, l. 60, through col. 9, l. 10) More specifically, "the display screen or panel also preferably includes a 'Discover' button . . . to enable the user to effect the discovery process at logon." (Col. 9, ll. 1-4) As has been described, having the discovery process performed before the user logs onto a network means that the computer has to use the network devices before the user logs onto a network, which means that the computer has to have loaded the network device drivers for these network devices before the user logs onto the network. That this discover button is "preferably" included also denotes that Dutcher suggests that deviation from the typical and normal behavior of the Microsoft Windows NT operating system to load the network device drivers (as well as all the other hardware device drivers) before a user logs onto a network, is not desirable, as is described in more detail below.

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In sum, Dutcher does not disclose in these excerpts loading device drivers for network devices after the user logs on. Dutcher does not disclose network device drivers at all in these excerpts. Dutcher does not disclose any deviation from the normal behavior of the Microsoft Windows NT operating system to load network device drivers before a user logs onto a network, with the loading of all the other hardware device drivers. Therefore, Dutcher does not anticipate the claimed invention, in which the network device drivers are not loaded until after a user has logged into his or her computer (which is further distinguished from logging onto a network, as in Dutcher).

*Could Dutcher be modified under 35 USC 103(a) to disclose the claimed invention?*

A logical final question is whether Dutcher could be modified under 35 USC 103(a) to yield the claimed invention, in which network device drivers are not loaded until after a user has logged into his or her computer. The answer is no. First, as has been described, Dutcher does not deviate from the normal behavior of the Microsoft Windows NT operating system to load network device drivers before a user logs onto a network, with the loading of all the other hardware device drivers. There is no discussion in Dutcher regarding network device drivers at all. Therefore, there is no suggestion within the prior art, either implicitly or explicitly, to modify Dutcher to yield the claimed invention. Indeed, the only suggestion to do so would have to come from the patent application as filed, which would result in impermissible hindsight being used to modify Dutcher to yield the claimed invention.

Second, Dutcher indeed teaches away from modification to yield the claimed invention – that is, the only suggestion in Dutcher is to *not* modify the standard behavior of the Microsoft Windows NT operating system to load network device drivers before a user logs onto a network, with the loading of all the other hardware device drivers. This is because Dutcher teaches a “preferred” embodiment of its invention in which there is a discover button that a user can select to learn of the networks onto which the user can log on, before the user has actually logged on. As has been described, this discovery process inherently and necessarily requires that the

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network device drivers for the computer's network devices be already loaded in order to discover such networks. If Dutcher were modified so that these network device drivers were not loaded before the user logs on, then the user could not discover the networks.

Thus, if anything, Dutcher suggests that the standard behavior of the Microsoft Windows NT operating system to load network device drivers before a user logs onto a network not be deviated from, which is a suggestion away from the claimed invention. Put another way, modifying Dutcher to yield the claimed invention impermissibly changes the principle of operation of Dutcher, since a user in Dutcher would no longer be able to discover what networks that he or she can log on. For both of these reasons, Dutcher is not modifiable under 35 USC 103(a) to disclose the claimed invention.

#### Conclusion

In sum, Applicant believes that claims 12 and 17 have been rejected due to a completely understandable misunderstanding of what a network device driver is. Applicant hopes that the preceding discussion assists the Examiner in understanding why the claimed invention is different than Dutcher, due to the distinction of a network device driver not being loaded until after the user logs into his or her computer in the claimed invention. Applicant notes that claim 1 has been amended so that it is also limited to the network device drivers being loaded after the user has logged into his or her computer, and in this way claim 1 is patentable over Dutcher in the same way as claims 12 and 17 as originally filed are.

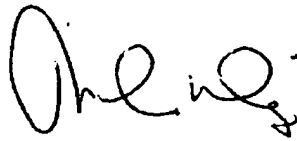
Therefore, Applicant has truly made a diligent effort to place the pending claims in condition for allowance, and request that they so be allowed. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Mike Dryja, Applicant's Attorney, at 425-427-5094, so that such issues may be resolved as expeditiously as possible. For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

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Respectfully Submitted,



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